

## COMMERCE AND NAVIGATION

*Treaty signed at Hanover June 10, 1846*

*Senate advice and consent to ratification January 6, 1847*

*Ratified by the President of the United States January 8, 1847*

*Ratified by Hanover March 5, 1847*

*Ratifications exchanged at Hanover March 5, 1847*

*Entered into force March 5, 1847*

*Proclaimed by the President of the United States April 24, 1847*

*Fourth paragraph of article 1<sup>1</sup> terminated April 29, 1862, by treaty of November 6, 1861<sup>2</sup>*

*Obsolete*

9 Stat. 857; Treaty Series 154<sup>3</sup>

The United States of America and His Majesty the King of Hanover, equally animated with a desire of placing the privileges of their navigation on a basis of the most extended liberality, and of affording, otherwise, every encouragement and facility, for increasing the commercial intercourse between their respective States, have resolved to settle in a definitive manner the rules which shall be observed between the one and the other by means of a treaty of Navigation and Commerce: For which purpose the President of the United States has conferred full powers on A. Dudley Mann, their special Agent to His Majesty the King of Hanover, and His Majesty the King of Hanover has furnished with the like full powers the Baron George Frederick de Falcke of His privy Council, Knight Grand-Cross of the Royal Guelphick Order, who after exchanging their full powers found in good and due form, have concluded and signed, subject to ratification, the following articles:

### ARTICLE 1

The High Contracting Parties agree, that whatever kind of produce, manufacture or merchandise of any foreign country can be, from time to time, lawfully imported into the United-States in their own vessels, may also be imported in vessels of the Kingdom of Hanover, and no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected

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<sup>1</sup> Third paragraph in German text.

<sup>2</sup> TS 156, *post*, p. 37.

<sup>3</sup> For a detailed study of this treaty, see 4 Miller 825.

whether the importation be made in a vessel of the United States or in a Hanoverian vessel. And in like manner, whatever kind of produce, manufacture or merchandise of any foreign country can be, from time to time, lawfully imported into the Kingdom of Hanover in its own vessels may also be imported in vessels of the United States; and no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected, whether the importation be made in vessels of the one party or the other.

Whatever may be lawfully exported or re-exported by one party in its own vessels to any foreign country, may, in like manner, be exported or re-exported in the vessels of the other. And the same duties, bounties and drawbacks shall be collected and allowed, whether such exportation or re-exportation be made in vessels of the one party or the other.

Nor shall higher or other charges of any kind be imposed in the ports of the one party on vessels of the other, than are or shall be payable in the same ports by national vessels.

And further it is agreed that no higher, or other toll, shall be levied or collected at Brunshausen or Stade on the river Elbe, upon the tonnage or cargoes of vessels of the United States than is levied and collected upon the tonnage and cargoes of vessels of the Kingdom of Hanover and the vessels of the United States shall be subjected to no charges, detention or other inconvenience by the Hanoverian authorities in passing the above mentioned place, from which vessels of the Kingdom of Hanover are or shall be exempt.<sup>4</sup>

#### ARTICLE 2

The preceeding article is not applicable to the coasting trade and navigation of the High Contracting Parties, which are respectively reserved by each exclusively to its own subjects or citizens.

#### ARTICLE 3

No priority or preference shall be given by either of the Contracting Parties, nor by any company, corporation or agent, acting on their behalf, or under their authority in the purchase of any article of commerce lawfully imported, on account of or in reference to the national character of the vessel, whether it be of the one Party or of the other, in which such article was imported.

#### ARTICLE 4

The ancient and barbarous right to wrecks of the sea shall remain entirely abolished with respect to the property belonging to the subjects or citizens of the High Contracting Parties.

When any vessel of either Party shall be wrecked, stranded or otherwise damaged on the coasts, or within the dominions of the other, their respective citizens or subjects shall receive, as well for themselves as for their vessels

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<sup>4</sup> Paragraph terminated Apr. 29, 1862, by treaty of Nov. 6, 1861 (TS 156, *post*, p. 37).

and effects, the same assistance which would be due to the inhabitants of the country where the accident happens.

They shall be liable to pay the same charges and dues of salvage as the said inhabitants would be liable to pay in a like case.

If the operations of repair shall require that the whole, or any part of the cargo be unloaded, they shall pay no duties of custom, charges or fees, on the part which they shall reload and carry away, except such as are payable in the like case, by national vessels.

It is nevertheless understood, that if, whilst the vessel is under repair, the cargo shall be unladen, and kept in a place of deposit destined to receive goods, the duties on which have not been paid, the cargo shall be liable to the charges and fees lawfully due to the keepers of such warehouses.

#### ARTICLE 5

The privileges secured by the present treaty to the respective vessels of the High Contracting Parties shall only extend to such as are built within their respective territories, or lawfully condemned as prize of war, or adjudged to be forfeited for a breach of the municipal laws of either of the High Contracting Parties and belonging wholly to their subjects or citizens.

It is further stipulated, that vessels of the Kingdom of Hanover may select their crews from any of the States of the Germanic Confederation, provided that the master of each be a subject of the Kingdom of Hanover.

#### ARTICLE 6

No higher or other duties shall be imposed on the importation into the United States of any articles, the growth, produce or manufacture of the Kingdom of Hanover, or of its fisheries, and no higher or other duties shall be imposed on the importation into the Kingdom of Hanover of any articles, the growth, produce and manufacture of the United States and of their fisheries, than are or shall be payable on the like articles being the growth, produce or manufacture of any other foreign country or of its fisheries.

No higher or other duties and charges shall be imposed in the United States on the exportation of any articles to the Kingdom of Hanover, or in Hanover on the exportation of any articles to the United States, than such as are or shall be payable on the exportation of the like articles to any other foreign country.

No prohibition shall be imposed on the importation or exportation of any articles, the growth, produce or manufacture of the Kingdom of Hanover or of its fisheries or of the United States or their fisheries from or to the ports of said Kingdom or of the said United States, which shall not equally extend to all other powers and states.

#### ARTICLE 7

The High Contracting Parties engage mutually not to grant any particular favor to other nations in respect of navigation and duties of customs which

shall not immediately become common to the other Party, who shall enjoy the same freely, if the concession was freely made, or on allowing a compensation as near as possible if the concession was conditional.

#### ARTICLE 8

In order to augment by all the means, at its bestowal, the commercial relations between the United States and Germany the Kingdom of Hanover hereby agrees to abolish the import duty on raw cotton, and also to abolish the existing transit duties upon leaves, stems and strips of tobacco, in hogsheads or casks, raw cotton in Bales or Bags, whale Oil in casks or barrels, and rice in tierces or half tierces.

And further the Kingdom of Hanover obligates itself to levy no Weser-tolls on the afore mentioned articles, which are destined for, or landed in ports or other places, within its territory on the Weser; and it moreover agrees that if the States bordering upon said river shall consent at any time, however soon, to abolish the duties which they levy and collect upon said articles destined for ports or other places within the Hanoverian territory, the Kingdom of Hanover will readily abolish the Weser-tolls upon the same articles destined for ports and places in such States.

It being understood however that the afore said stipulations shall not be deemed to prohibit the levying upon the said articles a tax sufficient for defraying the expence of maintaining the regulation respecting transit goods. But in no case shall such tax exceed Eight Pfennigs Hanoverian currency (two Cents United States currency,) for one hundred Pounds Hanoverian weight (one hundred and four Pounds United States weight.).

#### ARTICLE 9

The High Contracting Parties grant to each other the liberty of having, each in the ports of the other, consuls, vice-consuls, commercial-agents and vice-commercial-agents of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but if any of the said consuls, shall carry on trade, they shall be subjected to the same laws and usages to which private individuals of their nation are subjected in the same place.

The consuls, vice-consuls, commercial- and vice-commercial-agents, shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the masters and crews of the vessels belonging to the nation, whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews or the Captain should disturb the order or tranquillity of the country; or the said consuls, vice-consuls, commercial-agents or vice-commercial-agents should require their assistance to cause their decisions to be carried into effect or supported.

It is however understood that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort on their return, to the judicial authority of their own country.

The said consuls, vice-consuls, commercial-agents and vice-commercial-agents are authorized to require the assistance of the local authorities for the search, arrest, and imprisonment of the deserters from the ships of war and merchant vessels of their country.

For this purpose they shall apply to the competent tribunals, judges and officers, and shall, in writing, demand said deserters proving by the exhibition of the registers of the vessels, the muster-rolls of the crews, or by any other official documents, that such individuals formed part of the crews, and on this claim being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice-consuls, commercial-agents or vice-commercial-agents and may be confined in the public prisons, at the request and cost of those who shall claim them, in order, to be sent to the vessels to which they belong, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty and shall not be again arrested for the same cause. However, if the deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal, before which his case shall be pending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

#### ARTICLE 10

The subjects and citizens of the High Contracting Parties shall be permitted to sojourn and reside in all parts whatsoever of the said territories in order to attend to their affairs, and also to hire and occupy houses and warehouses for the purposes of their commerce, provided they submit to the laws, as well general as special, relative to the right of residing and trading.

Whilst they conform to the laws and regulations in force, they shall be at liberty to manage themselves their own business in all the territories subject to the jurisdiction of each party, as well in respect to the consignment and sale of their goods, by wholesale or retail, as with respect to the loading, unloading and sending off their ships, or to employ such agents and brokers as they may deem proper, they being in all these cases to be treated as the citizens or subjects of the country in which they reside, it being nevertheless understood, that they shall remain subject to the said laws and regulations also in respect to sales by wholesale or retail.

They shall have free access to the tribunals of justice in their litigious affairs on the same terms which are granted by the law and usage of country to native citizens or subjects, for which purpose they may employ in defence of their rights, such advocates, attornies and other agents as they may judge proper.

The citizens or subjects of each Party shall have power to dispose of their personal property within the jurisdiction of the other, by sale, donation, testament or otherwise.

Their personal representatives, being citizens or subjects of the other Contracting Party shall succeed to their said personal property, whether by testament or ab intestato.

They may take possession thereof, either by themselves, or by others, acting for them, at their will, and dispose of the same, paying such duty only as the inhabitants of the country wherein the said personal property is situate shall be subject to pay in like cases.

In case of the absence of the personal representatives, the same care shall be taken of the said property as would be taken of the property of a native in like case, until the lawfull owner may take measures for receiving it.

If any question should arise among several claimants to which of them the said property belongs, the same shall be finally decided, by the laws and judges of the country wherein it is situate.

Where, on the decease of any person, holding real estate within the territories of one Party such real estate would, by the laws of the land descend on a citizen or subject of the other were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the Government of the respective States.

The capitals and effects which the citizens or subjects of the respective Parties, in changing their residence shall be desirous of removing from the place of their domicil shall likewise be exempt from all duties of detraction or emigration on the part of their respective Governments.

#### ARTICLE 11

The present treaty shall continue in force for the term of twelve years from the date hereof, and further until the end of twelve months after the Government of Hanover on the one part or that of the United States on the other part, shall have given notice of its intention of terminating the same; but upon the condition hereby expressly stipulated and agreed, that, if the Kingdom of Hanover shall determine, during the said term of twelve years, to augment the existing import duty upon leaves, strips or stems of tobacco, imported in Hogsheads or Casks,—a duty which at this time does not exceed one Thaler and one Gutengroschèn per one hundred pounds Hanoverian currency and weight (seventy Cents pr. one hundred pounds United States currency and weight)—the Government of Hanover shall give a notice of one year to the Government of the United States before proceeding to do so, and at the expiration of that year, or any time subsequently, the Government of the United States shall have full power and right to abrogate the present treaty by giving a previous notice of six months to the Government of Han-

over, or to continue it, (at its option), in full force, until the operation thereof shall have been arrested in the manner first specified in the present article.

#### ARTICLE 12

The United States agree to extend all the advantages and privileges contained in the stipulations of the present treaty to one or more of the other States of the Germanic Confederation, which may wish to accede to them, by means of an official exchange of declarations, provided that such State or States shall confer similar favors upon the said United States to those conferred by the Kingdom of Hanover and observe and be subject to the same conditions, stipulations and obligations.<sup>5</sup>

#### ARTICLE 13

The present Treaty shall be approved and ratified by the President of the United States of America by and with the advice and consent of their Senate and by His Majesty the King of Hanover; and the ratifications thereof shall be exchanged at the City of Hanover within the space of ten months from this date, or, sooner if possible, when the treaty of commerce and navigation concluded between the High Contracting Parties at Berlin on the 20<sup>th</sup> day of May 1840<sup>6</sup> shall become null and void to all intents and purposes.

In faith whereof, We, the plenipotentiaries of the High Contracting Parties, have signed the present treaty and have thereto affixed our seals.

Done in quadruplicate at the City of Hanover on the tenth day of June in the year of our Lord One thousand eight hundred and forty six, & in the seventieth year of the independence of the United States of America.

A. DUDLEY MANN [SEAL]

GEORGE FREDERICK BARON DE FALCKE [SEAL]

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<sup>5</sup> For declarations of accession by Mecklenburg-Schwerin and Oldenburg, see TS 199, *post*, p. 56, and TS 263, *post*, p. 74.

<sup>6</sup> TS 153, *ante*, p. 21.